

REMARKS/ARGUMENTS

Claims 1 and 2-23 are pending in the application. Claims 1, 10, 19, 22 and 23 have been amended. Support for the claims can be found in, for example, FIG. 1. No new matter has been introduced by virtue of the amendments.

The Action rejected claims 1, 3-5, 7-15, 18 and 23 for allegedly being obvious over Nakamura et al. (U.S. Patent Publication No. 2002/0078296) in view of DeMargerie et al. (U.S. Patent No. 6,859,865) under 35 U.S.C. § 103 (a). These claim rejections are overcome as follows.

Claim 1 has been amended to recite that the intermediate storage subsystem is not directly coupled to a host unit. Independent claims 10, 19, 22 and 23 have been similarly amended.

The Action referred to main center 101 shown in Nakamura's FIG. 1 as an intermediate storage subsystem recited in claim 1. Clearly, main center 101 includes and is directly coupled to a host unit 105. Applicant submits that Nakamura fails to teach or suggest that the intermediate storage subsystem is not directly coupled to a host unit. Further, since Nakamura labels the element 101 as "main center," one of ordinary skill in the art would not have referred to and treated main center 101 as an intermediate storage subsystem as recited in claim 1.

Further, claim 1 calls for primary storage subsystems, an intermediate storage subsystem, and secondary storage subsystems. This recited arrangement has three data centers, where the primary storage sends data to the intermediate storage and the intermediate storage in turn sends data to the secondary storage. In other words, the primary storage subsystem is coupled to the intermediate storage subsystem, which is in turn coupled to the secondary storage subsystem.

As conceded by the Action, Nakamura fails to show the recited "first and second primary storage subsystems" to which the intermediate storage subsystem is coupled, and relied on DeMargerie for teaching the missing primary storage subsystems.

DeMargerie is related to remote mirrored storage system 10. Remote mirror storage system 10 is consisted of a primary site 12 and a remote site 14 . The Action referred to storage devices 22a and 22b in the primary site 12 as a primary storage subsystem recited in claim 1. However, the storage devices 22a and 22b are merely coupled to storage devices 32a and 32b in the remote site 14. No storage subsystem is coupled to the storage devices 32a and 32b. Applicant submits that both Nakamura and DeMargerie merely show dual storage systems, i.e., a main center 101 and a remote center 103 in Nakamura, and a primary site 12 and a remote site 14 in Demargerie. Accordingly, one of ordinary skill in the art would not have been motivated to modify Nakamura, a dual storage system, in view of DeMargerie, another dual storage system, to achieve a three storage system.

In the Action, Examiner alleged that the motivation to combine Nakamura and DeMargerie is an extra layer of protection provided in DeMargerie. Examiner's thought has been fully considered. Applicant, however, respectfully disagrees.

As set forth above, DeMargerie merely shows a dual storage system. Should one of skill in the art acknowledge DeMargerie's merits, he or she would merely adopt the dual storage system as shown in DeMargerie's FIG. 1 and would not have used DeMargerie's storage devices (either 22a/22b or 32a/32b) coupled to Nakamura's storage system.

Accordingly, the examiner appears to have used the three data center arrangement recited in the pending claims and taught in the pending specification to motivate his proposed modification of Nakamura whereby DeMargerie's storage devices (either 22a/22b or 32a/32b) are connected to Nakamura's Fig. 1 to arrive at the three data center arrangement of the pending claims. Since the pending claims and the specification are the only teachings that might suggest the examiner's proposed combination of references, the use of such teachings from the pending application constitutes the improper use of hindsight knowledge to support a Section 103 rejection.

Claims 3-5 and 7-9 depend from claim 1. Claims 3-5 and 7-9 are, therefore, not obvious over Nakamura in view of DeMargerie by virtue of their dependencies. Withdrawal of the rejections of claims 3-5 and 7-9 is respectfully requested.

Like claim 1, independent claims 10 and 19 are not obvious over the combined teachings of Nakamura and DeMargerie. Withdrawal of the rejections of claims 10 and 19 is, therefore, respectfully requested.

Claims 11-14 depend from claim 10 and are, therefore, not obvious over Nakamura and DeMargerie by virtue of their dependencies. Withdrawal of the rejections of claims 11-14 is respectfully requested.

The Action rejected claims 19, 20 and 22 for allegedly being obvious over Nakamura in view of DeMargerie and further in view of Peng (U.S. Patent Application No. 2002/0122601) under 35 U.S.C. § 103 (a).

Though disclosing various features, Peng fails to cure the deficiency of Nakamura and DeMargerie as set forth above in conjunction with claim 1. Like claim 1, independent claims 19 and 22 are not obvious over Nakamura, DeMargerie and Peng. Withdrawal of the rejections of independent claims 19 and 22 is respectfully requested. Claim 20 depends from claim 19 and is, therefore, not obvious over the combined teachings of Nakamura, DeMargerie and Peng by virtue of dependency. Withdrawal of the rejection of claim 20 is respectfully requested.

The Action rejected claim 21 for allegedly being obvious over Nakamura in view of DeMargerie and further in view of Hakenberg et al. (U.S. Patent Application No. 2003/0198250) under 35 U.S.C. § 103 (a).

Claim 21 depends from claim 19. Though disclosing various features, Hakenberg fails to cure the deficiency of Nakamura and DeMargerie as set forth above in conjunction with claim 1. Withdrawal of the rejections of claim 21 is respectfully requested.

The Action also rejected claims 6, 16 and 17 for allegedly being obvious over Nakamura in view of DeMargerie and further in view of Kaiya et al. (U.S. Patent Application No. (2003/0028737) under 35 U.S.C. § 103 (a).

Claim 6 depends from claim 1 and claims 16 and 17 depend from claim 10. Though disclosing various features, Kaiya fails to cure the deficiency of Nakamura and DeMargerie as set forth above in conjunction with claim 1. Claims 6, 16 and 17 are not obvious

over the combined teachings of Nakamura, DeMargerie and Kaiya by virtue of their dependencies. Withdrawal of the rejection of claims 6, 16 and 17 is respectfully requested.

From the foregoing, reconsideration and withdrawal of the rejections of claims 1 and 3-23 are respectfully requested.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,

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